

REPORT - PLANNING COMMISSION MEETING
January 9, 2003

Project Name and Number: Warm Springs Tentative Tract Map 7409 (PLN2003-00074)

Applicant: John Garcia, Santa Clara Development Co.

Proposal: To consider Tentative Tract Map 7409, a Private Street, and a revised Preliminary Grading Plan for the previously approved 194-unit Warm Springs Planned District (P-2002-76).

Recommended Action: Approve, based on findings and subject to conditions.

Location: 49055 Warm Springs Boulevard, Warm Springs Planning Area

Assessor Parcel Number(s): 519-1010-013-03

Area: 15.61 acres

Owner: John Garcia, Santa Clara Development Co.

Agent of Applicant: N/A

Consultant(s): John Wong, SWA Group
Don Utz, Civil Engineering Associates

Environmental Review: A Mitigated Negative Declaration was previously prepared and adopted for this project.

Existing General Plan: Medium-Density Residential (11 – 15 dwelling units per acre) and Gateway

Existing Zoning: P-2002-76, Residential Planned District

Existing Land Use: Vacant

Public Hearing Notice: Public hearing notification is applicable. A total of 38 notices were mailed to owners and occupants of property within 300 feet of the site. The adjacent Milpitas residents (within 300 feet of the project) have also been included in public hearing notifications for the proposed project, and staff has encouraged the applicant to continue communication with the City of Milpitas staff and neighbors. The notices to owners and occupants were mailed on December 30, 2002. A Public Hearing Notice was delivered to The Argus on December 18, 2002 to be published by December 30, 2002.

Background and Previous Actions: On March 27, 2001, the City Council approved a General Plan Amendment to change the project site from an industrial land use designation to medium-density residential (11 – 15 dwelling units per acre) and preliminary approval of a zone change from Restricted Industrial to preliminary Planned District. The project description included a conceptual site plan to develop approximately 195 townhouse and condominium units, 3 acres of private open space, parking and circulation, and associated landscaping. On September 10, 2002, the City Council approved the specific site plan and Planned District Rezoning (P-2002-76) for the project, which included 194 condominium and townhouse style units, 7.88 acres of open space, 508 total parking spaces, and associated circulation areas.

Project Description: The applicant is requesting approval of Tentative Tract Map 7409, a Private Street, and a revised Preliminary Grading Plan for the development of the 194 units approved under P-2002-76. The proposal includes 77 numbered lots for development; 37 lots for residential development of 155 condominium and townhouse style units, 39 lots for residential development of 39 attached single-family residences, and 1 lot for a recreation center/community building adjacent to the central open space area. The condominium and townhouse style units are to be located on the

larger lots, with multiple units per lot and individual "air-rights" for the each of the units (i.e. these units shall have airspace rights rather than land rights as would a typical, single-family subdivision). The attached single-family houses will be located on smaller, individual lots with landscape easements for the adjacent property owner. All areas not built (e.g. the paseo system, open space areas, and green spaces between buildings) are designated as Public Utility Easements (PUEs) to allow all residents access to the areas. The proposal also includes lettered lots for all streets and the primary open space areas without buildings.

The proposed subdivision pattern includes the designation of 15 blocks. The intent of these blocks is to show the anticipated phases of construction. The blocks do not represent phasing of the final map. The applicant intends to have only one final map based upon tentative tract map 7409.

The revised Preliminary Grading Plan is being proposed at staff's direction in order to reduce the overall runoff that is being taken offsite by proposing additional long-term Best Management Practices (BMPs) and more sustainable site design. The previously approved and currently proposed Grading Plans both propose 31,000 cubic yards of cut and 80,000 cubic yards of fill, for a total of 111,000 cubic yards total grading.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Medium Density Residential, 11-15 units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site based on the following General Plan Goals, Objectives and Policies:

GOAL H 2: High quality and well designed new housing of all types throughout the City.
This project is of a high quality design and construction, and is found to meet this goal.

GOAL H 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.

Policy LU 1.23 A variety of unit types and sizes shall be encouraged within each multi-family project.

Policy LU 1.24 Multi-family housing... shall be designed to accommodate the needs of families and children.

This project incorporates a variety of housing sizes and styles as well as an affordable component (19 moderate income for-sale units) to allow it to meet these goals and policies.

Policy LU 1.12 ...Play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.

The incorporation of the paseo feature, part of the project's justification for a Planned District, helps meet this policy.

- **Parking:** As part of the Tentative Tract Map and Private Street application, the applicant has provided revised parking details and locations. Changes include the required 'saw tooth' parking pattern at the north property line (to allow the larger trees), a reworked planter island at the southwest corner of the lot, and relocation of many of the handicapped-accessible stalls. The overall count and ratio of parking spaces has remained the same, and the revised parking is consistent with the originally approved project and required conditions of approval.
- **Open Space/Landscaping:** Additional open space area has been provided at the terminus of the private street labeled "Lot F1" on the Tentative Tract Map by removing a previously proposed turnaround and instead creating an approximately 2800 square foot (40'x70') area for landscaping, and/or an appropriate outdoor activity area. The turnaround was not required for parking or circulation purposes, and staff believes its replacement with landscaped open space is a positive change to the project. Landscape staff will review suitable additional landscaping for this area during the Development Organization (DO) building permit review process.
- **Circulation/Access Analysis:** Access to the project site is from Warm Springs Boulevard, a major four-lane thoroughfare. The project proposes two driveways on Warm Springs Boulevard, consistent with the previously approved Planned District. The primary driveway is the southernmost and is located near the center of the Warm

Springs Boulevard frontage. This main driveway is forty-four feet wide with one inbound lane and two outbound lanes. Left-turns in and out of the project site are accommodated by the installation of a raised median island and striping on Warm Springs Boulevard, providing a left-turn pocket for vehicles entering and an acceleration/refuge lane for vehicles exiting the project site.

The secondary driveway access is on the northern edge of the Warm Springs Boulevard frontage. This driveway is twenty-four feet wide and shall be limited to right turns in and out of the project site. A raised median will be installed on Warm Springs Boulevard to prevent vehicles from making left turns in or out of the project site at this driveway.

Private Vehicle Access Ways: On site vehicle circulation is provided via private vehicle access ways (PVAW). A PVAW is a type of private street, commonly used residentially for condominium and townhouse developments, because the PVAW has a lesser right-of-way width standard than a typical private or public street. The applicant has submitted a private street application along with the tentative tract map for this project.

The developer has selected first-choice street names for the on-site PVAWs. The selected names are Aster Way, Buttercup Court, Daisy Court, Lavender Court, Meadow Lane, Park Lane, Periwinkle Court, Rose Way, Sweet Pea Court, and Woodbury Circle. The street names Lavender Court, Meadow Lane, and Rose Way will likely need to be changed because Fremont currently has streets with the following names: Lavender Common, Meadows Court, Rose Court, and Rose Street. The developer shall work with staff to develop different street names if needed, subject to review and approval by the Fremont Fire Department and the City Engineer, prior to approval of the final map. Staff has amended the private street plan (Exhibit "G"), to note that the names shown are not approved at this time.

Street Improvements: The project site is located on Warm Springs Boulevard at the southern boundary of the City of Fremont and becomes North Milpitas Boulevard as it crosses into the City of Milpitas. Warm Springs Boulevard is a major four-lane thoroughfare and is planned for an ultimate pavement width of eighty-four feet. The developer is providing back-up landscaping treatment between the flat-units and the street right-of-way, in conformance with General Plan Open Space Goal 4: Distinctive gateways and roadway landscaping for Fremont.

The planned district (PLN2002-00076) site plan showed an offset of approximately five feet between the proposed and existing Warm Springs Boulevard improvements in the northeastern corner. The developer has fixed this offset with the tentative tract map. The developer is required to dedicate right-of-way and install complete street improvements up to the centerline of Warm Springs Boulevard in accordance with the City's Subdivision Ordinance.

Grading, Drainage, and Topography: On August 8, 2002, Planning Commission approved a preliminary grading plan, PLN2002-00076. The previously approved grading plan included the following condition:

Condition 7: The developer shall work with staff to revise the proposed drainage system to route more of the project runoff through the "river rock swale" and to increase the amount of storm water treatment measures on the project site. The revised drainage system shall be included with the tentative tract map application.

The developer and Project Civil Engineer have worked to revise the grading and storm drain design for the project. The current grading plan shows approximately half of the project site draining through the "river rock swale." Because the proposed grading and drainage has been revised, a new preliminary grading plan is being proposed for approval that will supercede the grading plan approved by Planning Commission on August 8, 2002.

The site is approximately 15.5 acres and gradually slopes down to the west, towards the railroad right-of-way. The applicant has proposed the construction of two depressed park areas, one adjacent to the railroad tracks and one in the middle of the development. These two areas have been designed to serve as active and passive use parks, as well as to provide for retention of floodwater during a large storm event. The need for on site storm water retention is driven by the fact that the Federal Emergency Management Agency (FEMA) designates a portion of the property as a special flood hazard area.

In addition to the parks serving as storm water retention basins, the developer is proposing to use fill material to elevate the grade at the building pads. Fill of up to five feet is proposed. The developer is building up these pads because structures must be constructed with the lowest floor at or above the base flood elevation, in order to be constructed in the special flood hazard area. See the "FEMA Flood Zone" discussion below for more information.

The estimated grading quantities for this project include 31,000 cubic yards of cut and 80,000 cubic yards of fill, for a total of 111,000 cubic yards of grading. The City Engineer, as part of a grading permit, shall approve the source for the 49,000 cubic yards of import material.

Retaining Walls: The developer is proposing the installation of retaining walls along the north, south, and east boundaries of the project. The retaining wall on the north boundary is incorporated into the soundwall that separates the project from the adjacent flood control channel and neighboring industrial use. The soundwall along the southern property line is shown on the grading plan as being incorporated into the existing concrete soundwall installed by the adjacent apartment development (see sections "G" and "H" on Exhibit "G"). The developer shall demonstrate that the existing soundwall can function as a retaining wall; otherwise the developer shall replace the existing soundwall with a new wall (condition 18, Exhibit "H").

The retaining wall along the eastern boundary is incorporated into the soundwall between this project and Warm Springs Boulevard. The soundwall is a requirement of the noise study completed for this project. The retaining wall portion is required because the floor plans and parking courts of the Flat Units are lower than Warm Springs Boulevard. The developer has proposed up to four feet of grade difference between the rear yard of the Flat Units and the other side of the soundwall. If the top of the soundwall is to be ten-feet higher than the curb elevation on Warm Springs Boulevard, then the wall, when viewed from the rear yards, will be approximately fourteen feet tall.

Drainage: The project drains to Zone 6, Line A, an existing concrete lined channel along the northern boundary of the site. The developer has proposed the construction of two open space areas that will serve as water storage during a flood event. The grading plan currently shows on-site drainage provided by a system of storm drain pipes, area drains, curb inlets in the street, and bio-swales. The largest bio-swale, labeled "river rock swale" on the grading plan, is proposed adjacent to the railroad right-of-way. The bio-swales help provide treatment of storm water runoff. The grading plan has been revised to divert more runoff to the "river rock swale" and other bio-swales in order to increase the potential for removal of pollutants from storm water runoff, which staff sees as a positive change in the project.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than five acres of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

FEMA Flood Zone: The western four hundred feet of the project site is located within the floodplain or a special flood hazard zone as defined by the Federal Emergency Management Agency (FEMA). In order to develop within the floodplain, all new structures shall be built with the lowest floor at or above the base flood elevation. The applicant has proposed to raise the grade on site, up to five feet in some areas, in order to bring the structures out of the floodplain. By raising the grade on site, the applicant is removing land area from the floodplain.

In order to maintain the storage capacity for floodwaters, the applicant has proposed to provide flood storage basins. The park areas along the railroad and in the center of the development have been designed to fill up with and store water during a flood event. The park along the railroad is also designed with a bio-swale to help remove pollutants carried in storm water runoff. Prior to approval of the final map, the applicant shall apply for and receive a conditional letter of map revision based on fill (CLOMR-F) from FEMA. The CLOMR-F is required to demonstrate to the City that the final map creates residential lots that comply with the National Flood Insurance Program. After the subdivision improvements or

grading is complete, the developer shall then apply for a letter of map revision (LOMR) or letter of map revision based on fill (LOMR-F), which will remove the residential lots from the special flood hazard area.

Applicable Fees:

- **Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.
- **Planned District Amenity Fees:** Amenity fees are applicable for the 23 units above Step 1 density of this project. Previous planned district (PLN2002-00076) conditions of approval require the payment of these fees prior to building permit issuance.
- **Park Dedication-in-lieu Fee:** This project will be subject to payment of Park Dedication-in-lieu fees. These fees shall be calculated and paid at the fee rate in effect at the time of building permit issuance.

Waste Management: This project involves residential construction and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Any trash/recycling enclosure for the project shall be designed in a manner to be architecturally compatible with nearby structures and with the existing topography and vegetation in accordance with such standards.

Environmental Analysis: A Mitigated Negative Declaration was previously prepared for and adopted by the City Council (on March 24, 2001) for this project under PLN2000-00324, and a finding is proposed that this project is consistent with that environmental document.

Response from Agencies and Organizations: The Alameda County Public Works Agency, by letter dated September 24, 2002, required that the applicant install three minimum 16-foot wide access gates instead of the previously required 15-foot wide gates. Additionally, a 3-foot wide paved maintenance access walkway and the proposed soundwall will be required. The applicant has indicated that it is currently working with the County to locate these improvements, and the County's approval will be required prior to final approval by the City.

Enclosures:	Exhibit "G"	Tentative Tract Map 7409, Private Street, and revised Preliminary Grading Plan
	Exhibit "H"	Preliminary Grading Plan Conditions of Approval
	Exhibit "I"	Tentative Tract 7409 Conditions of Approval
	Exhibit "J"	Private Street Conditions of Approval
	(Informational)	Approved Site Plan for PLN2002-00076
	(Informational)	Approved Grading Plan for PLN2002-00076

Exhibits:	Exhibit "G"	Tentative Tract Map 7409, Private Street, and revised Preliminary Grading Plan
	Exhibit "H"	Preliminary Grading Plan Conditions of Approval
	Exhibit "I"	Tentative Tract 7409 Conditions of Approval
	Exhibit "J"	Private Street Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find PLN2003-00074 is consistent with and complies with all portions of the previously approved Mitigated Negative Declaration (PLN2002-00076).

3. Find PLN2003-00074 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
4. Find PLN2003-00074 fulfills the intent of the applicable requirements set forth in the Fremont Municipal Code.
5. Approve PLN2003-00074, as shown on Exhibit "G", subject to findings and conditions on Exhibits "H", "I", and "J".

EXHIBIT "H"
Findings and Conditions of Approval for
PLN2003-00074 – Preliminary Grading Plan
Note: Supersedes Exhibit "D" of P-2002-76
Warm Springs Planned District – Santa Clara Development

FINDINGS:

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated January 9, 2003, incorporated herein by reference:

- (a) The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
- (b) The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site that might be aggravated by the grading of the development.
- (c) The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant is required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
- (d) Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
- (e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

- 1. The project shall conform to staff amended Exhibit "G" (Tentative Tract Map 7409, Private Street, and revised Preliminary Grading Plan), Exhibit "I" (Tentative Tract 7409 Conditions of Approval), Exhibit "J" (Private Street Conditions of Approval), all conditions of approval set forth herein, and all conditions of approval of Planned District P-2002-76 (PLN2002-00076).
- 2. These conditions of approval, Exhibit "H" of PLN2003-00074, supersede all conditions of approval of the previously approved preliminary grading plan, Exhibit "D" of PLN2002-00076.
- 3. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 4. Approval of this preliminary grading plan shall run concurrent with the approval and subsequent extensions of Tentative Tract Map 7409.

5. The developer shall obtain a final grading permit in conjunction with the final map. Grading shall be subject to the approval of the City Engineer.
6. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District.
7. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
8. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
9. The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose.
10. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).
11. The applicant shall submit a detailed soils report including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California.
12. Grading operations shall be in accordance with recommendations contained in the required soils report and be supervised by an engineer registered in the State of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.
13. A disposal site for the off-site haul dirt materials, or source for the import fill, shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
14. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission subject to approval of the City Engineer.
15. Prior to the commencement of any site work for the proposed development, the developer shall provide evidence that a Notice of Intent (NOI) has been submitted in compliance with the State of California Water Resources Control Board Order No. 92-08-DWQ, NPDES permit No. CAS000002.
16. The minimum drainage slope in swales near buildings shall be 1.5%, as recommended by the Project Geotechnical Engineer, Donald E. Banta & Associates, Inc., in their letter dated December 4, 2002. The longitudinal slope in bio-swales, such as the "River Rock Swale", may be reduced to a minimum slope of 1.0%, subject to review and approval of the City Engineer.
17. Unless otherwise noted on Exhibit "G", all retaining walls shall be limited to a maximum height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls may be allowed for retaining walls 12-inches or less in height.
18. The developer shall demonstrate, by providing structural calculations by a licensed engineer, that the existing soundwall on the southern property line can function as a retaining wall, otherwise the developer shall replace the existing soundwall with a new wall.
19. The developer shall adhere to the recommendations in the Donald E. Banta & Associates Inc. report entitled "Final Geotechnical Investigation, 15-acre Residential Development, 49055 Warm Springs Boulevard, Fremont, California," dated September 27, 2002, and any additional or supplementary

geotechnical recommendations. The subdivision improvement plans and specifications for all disciplines, including but not limited to civil engineering, landscape architecture, and electrical engineering, shall address the following issues from the Banta & Associates report:

- a. Highly expansive soils, with seasonal shrinking and swelling that can result in heaving and cracking of slabs and foundations
 - b. Shallow groundwater, particularly in regards to grading and utility trench designs
 - c. Subgrade stabilization measures required, such as lime/cement treatment, in the event that unstable subgrade conditions are encountered
20. The Project Geotechnical Engineer shall be retained to review the final foundation and earthwork plans and specifications. The Project Geotechnical Engineer shall approve the subdivision improvement plans prior to City approval of the final map.

EXHIBIT "I"
Findings and Conditions of Approval for
PLN2003-00074 – Tentative Tract 7409
Warm Springs Planned District – Santa Clara Development

FINDINGS:

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated January 9, 2003, incorporated herein by reference:

- (a) The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance and applicable zoning.
- (b) The proposed subdivision, together with the provisions of the design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration and development is in conformance with the General Plan's medium density residential standards, policies, and requirements.
- (c) The site is physically suitable for the type and proposed density of the development since the proposed lot configuration and development is in conformance with the zoning district.
- (d) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because of the site is an infill site fully surrounded by urban improvements and amenities, and any potential environmental impacts have been mitigated to a less than significant impact level by the previously adopted Mitigated Negative Declaration.
- (e) The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review of the project has taken those concerns into consideration and has found the proposal to be in conformance with the City of Fremont's codes and policies.
- (f) The design of the subdivision and the type of improvements will not conflict with easements acquired by the public-at-large for access through or use of the property within the proposed subdivision because no such easements are required. Other easements will be established as part of the project and review process for emergency services, maintenance work, etc.

TENTATIVE TRACT MAP CONDITIONS OF APPROVAL:

- 1. The project shall conform to staff amended Exhibit "G" (Tentative Tract Map 7409, Private Street, and revised Preliminary Grading Plan), Exhibit "H" (Preliminary Grading Plan Conditions of Approval), Exhibit "J" (Private Street Conditions of Approval), all conditions of approval set forth herein, and all conditions of approval of Planned District P-2002-76 (PLN2002-00076).
- 2. Plans must be submitted to the Development Organization for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- 3. Prior to final map approval, the developer shall apply for and receive a conditional letter of map revision based on fill (CLOMR-F) from the Federal Emergency Management Agency. The CLOMR-F shall be based upon the grading plan for the entire project and the CLOMR-F shall conclude that lots proposed to have structures for human occupancy will be removed from the special flood hazard area.

4. The developer shall dedicate right-of-way and install complete street improvements to the centerline of Warm Springs Boulevard across the project frontage in accordance with the Subdivision Ordinance. Warm Springs Boulevard is a major four-lane thoroughfare with a pavement width of eighty-four feet.
5. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans. The final streetlight plan and joint trench plan shall be completed prior to final map approval. Streetlight design shall be decorative and appropriate for the project and neighborhood. Ultimate design and location shall be subject to staff review and approval.
6. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7409.
7. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
8. The applicant shall provide an all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. (UFC 902.2.1).
9. The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed. (UFC 903.2 & Appendix IIIA).
10. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
11. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
12. Pursuant to FMC Section 8-9100, et seq., a park dedication in lieu fee is required for the 194 residential units in the proposed development. The fee per parcel shall be as set forth in the City's Master Fee Resolution in effect at the time the final map is filed with the City Engineer for approval and all tentative map conditions of approval have been satisfied. The park dedication in lieu fee will be collected prior to issuance of the building permit for each residential lot.
13. All new utility service connections, including electrical and communications, backflow preventers, other transformers, etc. shall be installed underground, subject to the review and approval of staff.
14. The developer shall underground all existing overhead utility lines along Warm Springs Boulevard in accordance with the City of Fremont's Utility Underground Ordinance.
15. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
16. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.

17. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
18. The homeowners association is to periodically provide educational materials on storm water pollution prevention (as furnished by the City) to all members.
19. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, e.g. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
20. A homeowners association or any other mechanism acceptable to the City is to be established, formed, and is to covenant and be responsible for the maintenance of all commonly owned facilities, which are not maintained by the public utility agency. The maintenance responsibility includes, but is not limited to, maintenance work resulting from backfill failure and maintenance of private vehicle access ways. The developer is responsible for maintenance for all facilities during the warranty period.
21. The homeowners association or any other mechanism acceptable to the City established in conjunction with Tract 7409 shall be responsible for maintenance of the backup landscaping on Warm Springs Boulevard between the required soundwall and the back of curb.
22. The homeowners association shall be subject to the relevant conditions of approval established in Exhibit "C" of PLN2002-00076.
23. The applicant shall add and relocate the following public fire hydrants:
 - a. Add two hydrants on the west side of Warm Springs Boulevard. The first on the north side of the project, just before the north entrance. The second one 300 feet south of number one.
 - b. Add an additional fire hydrant on the corner of Street A and Street C-3 (lot 64).
 - c. Relocate the following hydrants to the opposite side of the street:
 - i) Fire hydrants on corner of Park Lane and Aster Way to the northeast corner (lot 2 to lot 1).
 - ii) Fire hydrants on lot 68 to lot 53, entrance to Rose Way.
24. An additional fire hydrant will be required for the club house/community center on lot 36. Maximum distance to fire department connection for A.F.E.S is 100 feet on the same side of the street.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

EXHIBIT "J"
Findings and Conditions of Approval for
PLN2003-00074 – Private Street
Warm Springs Planned District – Santa Clara Development

PRIVATE STREET CONDITIONS OF APPROVAL:

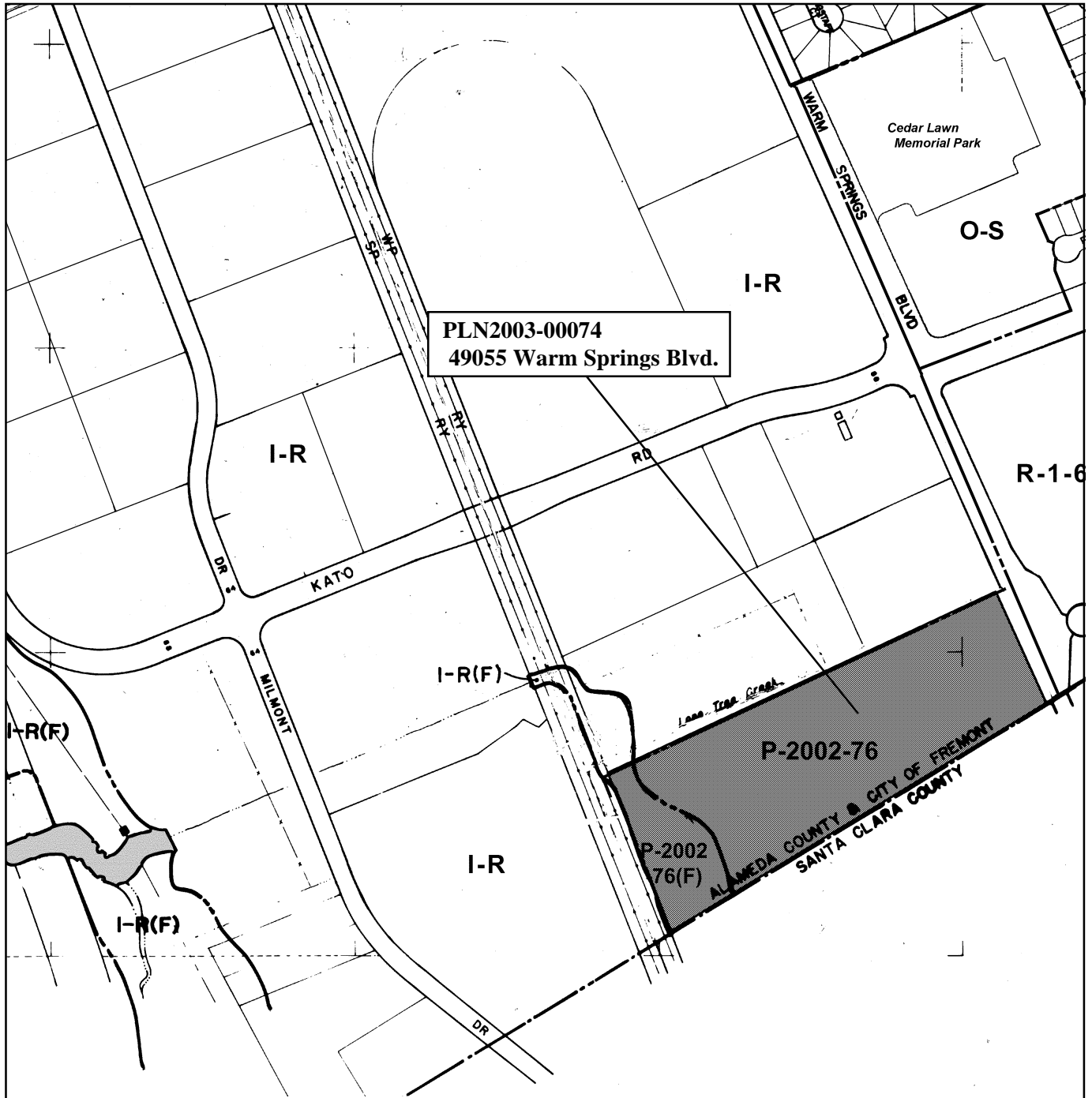
The following conditions are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated January 9, 2003, incorporated herein by reference:

1. The private street shall conform with staff amended Exhibit "G" (Tentative Tract Map 7409, Private Street, and revised Preliminary Grading Plan), attached hereto and made a part hereof, Exhibit "H" (Preliminary Grading Plan Conditions of Approval), Exhibit "I" (Tentative Tract 7409 Conditions of Approval), all conditions of approval set forth herein, and all conditions of approval of Planned District P-2002-76 (PLN2002-00076).
2. This Private Street (PLN2003-00074) is being conditionally approved based on the accuracy of the information shown on Exhibit "G" and submitted with the Private Street application. If any of the information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval.
3. The private street names shown on Exhibit "G" are subject to modification prior to final map approval. If needed, the developer shall work with staff to provide different street names, subject to review and approval of the Fremont Fire Department and the City Engineer.
4. A Private Street and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical, gas, and communication facilities.
5. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (E.V.A.E.) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.
6. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
7. Deed restrictions are to be recorded concurrently with the final map to create a mandatory Home Owner's Association or any other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
 - a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Home Owner's Association.
 - b. Payment of the water and private street lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.

- d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Homeowner's Association. The Home Owner's Association is to be responsible for repainting any fire hydrants along the private street.
8. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Homeowner's Association and the conditions, covenants and restrictions applying to the development.
9. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.
10. Minimum pavement width of the private street shall be 24 feet. Precise limits of work shall be subject to approval of the City Engineer.
11. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve prior to final map approval, or is to agree to improve within one year of final map approval, the private street frontage of the map. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to construct, or agree to construct, prior to acceptance and approval of the final map by the City are as set forth in the City Development Policy for Private Vehicle Access ways. Improvements to be constructed include:
 - a. Curb and gutter
 - b. Driveways
 - c. Street paving
 - d. Private Street monuments
 - e. Electroliers (wired underground)
 - f. Drainage facilities
 - g. Signs
 - h. Fire hydrants
12. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a twenty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing shall be treated with a seal coat of a type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
13. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
14. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
15. The private street shall be posted for total parking prohibition within the private street right-of-way, except in areas designated as parking on Exhibit "G".

16. Approval of Private Street (PLN2003-00074) shall become effective upon final map approval.

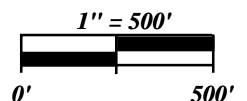
INFORMATIONAL



Existing Zoning

Project Number: PLN2003-00074 (TTM 7409, PS, GP)
Project Name: Warm Springs Tentative Tract Map 7409 (PLN2003-00074)
Project Description: To consider a Tentative Tract Map 7409, a Private Street, and a revised Preliminary Grading Plan for the previously approved 194-unit Warm Springs Planned District (P-2002-76), located in the Warm Springs Planning Area.

Note: Prior arrangements for access are not required for this site.



INFORMATIONAL



Existing General Plan

Project Number: PLN2003-00074 (TTM 7409, PS, GP)
Project Name: Warm Springs Tentative Tract Map 7409 (PLN2003-00074)
Project Description: To consider Tentative Tract Map 7409, a Private Street, and a revised Preliminary Grading Plan for the previously approved 194-unit Warm Springs Planned District (P-2002-76), located in the Warm Springs Planning Area.



Note: Prior arrangements for access are not required for this site.

